

### **How do I remove the 'legal' father from the birth certificate?**

If you were divorced and he was excluded as the father in the divorce decree, OCSS may file a motion for support. The 'legal' father has the right to be heard in court, but the Judge may order DNA testing to exclude him. You may also provide divorce documents showing that you were divorced or separated at the time of conception. If the husband is excluded, the OCSS will locate the biological father and upon the establishment of paternity, the court will order that he be added to the birth certificate.

### **So, what should I do when the child is born?**

Due to the complexity of this process, it is in everyone's best interest, including the child's, for the husband's name to be given at the hospital. By not doing so, it complicates and delays the process of establishing paternity, and getting support for the child. Once paternity is established, the certified court order must be submitted to the Dept. of Health, Vital Records and upon request, a corrected birth certificate will be issued.

### **What about my child's last name?**

RI law provides that if you were married at the time of birth of the child you may name the child any last name you choose. If you are not married, you must name the child your current legal last name. Many mothers choose to provide the child with the biological father's last name, and not the last name of her husband. This is acceptable per the law. Even though the child has the last name of the biological father, that does not mean he is the legal father of the child, your husband is still presumed to be the legal father.

### **How do I receive support for a child in this situation?**

The OCSS will file a motion requesting support from your husband who is the legal father. He may ask for DNA testing and if he is excluded as the father, his name will be removed from the birth certificate. The OCSS can then proceed against the biological father, to establish paternity and a child support order.

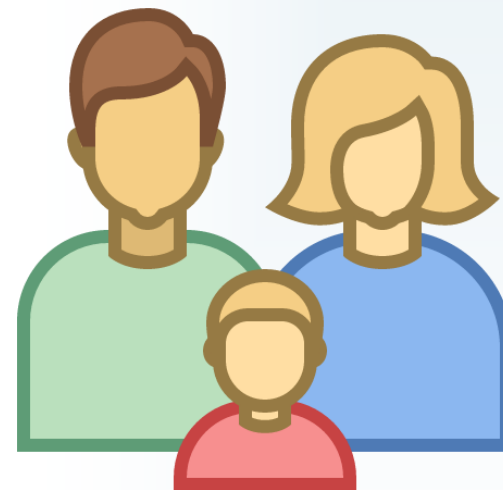
#### **More Questions?**

#### **Contact us!**

RI Department of Human  
Services  
Office of Child Support  
Services  
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## **Child Born During a Marriage**

### **What You Need to Know**



**State of Rhode Island  
Department of Human  
Services**





### Our Mission

To enhance the well-being of **children** by assuring that assistance in obtaining support, including financial and medical, is available to children through;

- locating parents
- establishing paternity
- establishing support of obligations,
- monitoring and enforcing those obligations.

### ***What if I am married to someone at the time of birth of my child but he is not the biological father of my child?***

Per RI law: A man is presumed to be the natural father of a child if he and the child's mother are married at the time of birth, or were married within three hundred (300) days of the birth. If the marriage was ended within 300 days of the birth by means of divorce, annulment, or death, the state presumes that the ex-husband is the father. **In short, legally your husband is presumed to be the father of the child.**

### ***What if I refuse to provide my husband's name to hospital records staff when the child is born?***

You should provide your husbands full name and date of birth so that his name can be added to the child's birth certificate. If you do not provide your husbands name, the birth certificate will read "husbands name unknown".

### ***What if I am receiving RI WORKS, Child Care, or RITE CARE benefits and I refuse to provide my husband's name?***

You are required to fully cooperate with the Office of Child Support Services to establish a court order for child support as a condition of your eligibility. If you refuse to provide the husband's name at the hospital, and the birth certificate states "husbands name unknown," you will still be required to provide his name to the eligibility technician at the RIWORKS office and to the Office of Child Support Services. **If you fail to provide his name, you may be denied benefits.**

### ***Why is it so important to provide my husband's name?***

By law, the husband is presumed to be the father of the child. Even if your husband is not the biological father of the child, you still should name him the father at the hospital. Legally, he must be provided notice and an opportunity to be heard in court and request DNA testing. The biological father's name cannot be entered on the birth certificate until your husband is excluded.